



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D. C. 20460

JUL 11 2007

**RETURN RECEIPT REQUESTED**

Certified Mail#7004-1160-0002-3622-8745

**IN REPLY REFER TO:**

EPA File No. 13R-04-R9

Mr. Michael Boyd, President  
Californians for Renewable Energy, Inc.  
[REDACTED]

**Re: Acceptance of Receipt of Administrative Complaint**

Dear Mr. Boyd:

This is to notify Californians for Renewable Energy, Inc., (CARE) that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) is accepting your administrative complaint filed against the Bay Area Air Quality Management District (BAAQMD). Your complaint was received by EPA on December 28, 2004. The complaint alleged that BAAQMD violated Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C §§ 2000d *et seq.*, and EPA's regulations implementing Title VI, found at 40 C.F.R. Part 7.

Under Title VI, a recipient of Federal financial assistance may not discriminate on the basis of race, color, or national origin. Pursuant to EPA's Title VI administrative regulations, OCR conducts a preliminary review of Title VI complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's Title VI regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that violates EPA's Title VI regulations (*i.e.*, an alleged discriminatory act based on race, color, or national origin). Third, it must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Fourth, it must be filed against an applicant for, or a recipient of, EPA financial assistance that committed the alleged discriminatory act.

OCR is accepting the following allegations for investigation:

**I. BAAQMD failure to provide public participation opportunities on a settlement agreement, which resolved 66 notices of violation against Calpine Pittsburg Power Plant LLC, (hereinafter "Calpine") facilities, violated Title VI.**

This allegation is accepted for investigation as it relates to the BAAQMD because it meets EPA's four jurisdictional requirements. First, the complaint is in writing. Second, the complaint describes a discriminatory act that may violate EPA's nondiscrimination regulations. Third, the complaint was filed on December 28, 2004, which was within 180 days of the September 1, 2004, signing of the Settlement Agreement for the Calpine facility. Further, since this allegation concerns an alleged failure to provide public participation related to the Settlement Agreement, we use the date the Settlement Agreement was signed for purposes of establishing timeliness. Finally, BAAQMD is a recipient of EPA federal financial assistance.

**II. BAAQMD failure to release compliance documents, specifically Notice of Violations, for Calpine facilities prior to the re-issuance of the November 9, 2004, Title V permit, violated Title VI.**

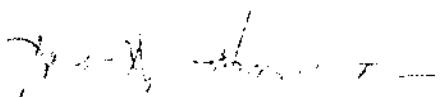
The allegation is accepted for investigation as it relates to the BAAQMD because it meets EPA's four jurisdictional requirements. First, the complaint is in writing. Second, the complaint describes a discriminatory act that may violate EPA's nondiscrimination regulations. Third, the complaint was filed on December 28, 2004, which was within 180 days of the November 9, 2004, re-issuance of the Title V permit. Further, since this allegation concerns an alleged failure to release compliance documents related to the permit, we use the permit issuance date for purposes of establishing timeliness. Finally, BAAQMD is a recipient of EPA federal financial assistance.

In another section of the complaint entitled, "The District Acted Prejudicially in Determining that CARE's & Pittsburg Unified School District's Title VI Civil Rights Complaint is Meritless," you objected to an email received from BAAQMD in which counsel described your complaint as meritless. Specifically, you stated that "taking such a blatantly improper position provides further evidence of [BAAQMD's] intent to discriminate against CARE's members and the constituents of the Pittsburg Unified School District, who are predominantly low-income children of color." A statement of opinion or a position by BAAQMD's counsel regarding a previous Title VI complaint is not evidence of discrimination. Therefore, OCR is not accepting this allegation for investigation.

EPA's nondiscrimination regulations provide that OCR must attempt to resolve complaints informally whenever possible. 40 C.F.R. § 7.120(d)(2). Accordingly, OCR may discuss, at any point during the process, offers to informally resolve the complaint, and may, to the extent appropriate, facilitate an informal resolution process and the involvement of affected stakeholders.

If you have any questions, please contact Ms. Helena Wooden-Aguilar of my staff by phone at (202) 343-9681, by e-mail at [wooden-aguilar.helena@epa.gov](mailto:wooden-aguilar.helena@epa.gov), or by mail to the U.S. EPA Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,



Karen D. Higginbotham  
Director

cc: Mr. Jack Broadbent - **Certified Mail#7004-1160-0002-3622-8738**

Executive Officer  
Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109

Stephen G. Pressman, Associate General Counsel  
Civil Rights & Finance Law Office  
Office of General Counsel (MC 2399A)

Jo Ann Asami, Title VI Coordinator  
EPA Region 9